WEST'S ANNOTATED CALIFORNIA REVENUE AND TAXATION CODE

Division 1. Property Taxation
Part 6. Tax Sales
Chapter 7. Sale to Private Parties After Deed to State

§ 3691. Power to sell; sale of part of parcel; tax-defaulted parcels; definitions; notice of intended sale; nuisance abatement liens

(a)(1)(A) Five years or more, or three years or more in the case of nonresidential commercial property, after the property has become tax defaulted, the tax collector shall have the power to sell and shall attempt to sell in accordance with Section 3692 all or any portion of tax-defaulted property that has not been redeemed, without regard to the boundaries of the parcels, as provided in this chapter, unless by other provisions of law the property is not subject to sale. Any person, regardless of any prior or existing lien on, claim to, or interest in, the property, may purchase at the sale. In the case of tax-defaulted property that has been damaged by a disaster in an area declared to be a disaster area by local, state, or federal officials and whose damage has not been substantially repaired, the five-year period set forth in this subdivision shall be tolled until five years have elapsed from the date the damage to the property was incurred.

(B) A county may elect, by an ordinance or

resolution adopted by a majority vote of its entire governing body, to have the five-year time period described in subparagraph (A) apply to tax-defaulted nonresidential commercial property.

(C) For purposes of this subdivision, "nonresidential commercial property" means all property except the following:

(i) A constructed single-family or multifamily unit that is intended to be used primarily as a permanent residence, is used primarily as a permanent residence, or that is zoned as a residence, and the land on which that unit is constructed.

(ii) Real property that is used and zoned for producing commercial agricultural commodities.

(2) When a part of a tax-defaulted parcel is sold, the balance continues subject to redemption and shall be separately valued for the purpose of redemption in the manner provided by Chapter 2 (commencing with Section 4131) of Part 7.

(3) The tax collector shall provide notice of an intended sale under this subdivision in the manner prescribed by Sections 3704 and 3704.5 and any other applicable statute. If the intended sale is of nonresidential commercial property that has been tax-defaulted for fewer than five years, all of the following apply:

(A) On or before the notice date, the tax collector shall also mail, in the manner specified in

paragraph (1) of subdivision (c) of Section 2924b of the Civil Code, notice containing any information contained in the publication required under Sections 3704 and 3704.5 to, as applicable, all of the following:

(i) The parties specified in paragraph (2) of subdivision (c) of Section 2924b of the Civil Code.

(ii) Each taxing agency specified in paragraph (3) of subdivision (c) of Section 2924b of the Civil Code.

(iii) Any beneficiary of a deed of trust or a mortgagee of any mortgage recorded against the nonresidential commercial property, and any assignee or vendee of these beneficiaries or mortgagees.

(B) For purposes of this paragraph:

(i) "Notice date" means a date not less than 45 days nor more than 120 days before an intended sale or not less than 45 days nor more than 120 days before the date upon which the property may be sold.

(ii) "Recording date of the notice of default" as used in subdivision (c) of Section 2924b of the Civil Code means a date that is 30 days before the notice date.

(iii) "Deed of trust or mortgage being foreclosed" as used in subdivision (c) of Section 2924b of the Civil Code means the defaulted tax lien.

(b)(1)(A) Three years or more after the property has become tax defaulted and a request has been made by a city, county, city and county, or nonprofit organization pursuant to Section 3692.4, or a request has been made by a person or entity that has recorded a nuisance abatement lien on that property, to offer that property at the next scheduled tax sale, the tax collector shall have the power to sell and may sell all or any portion of tax-defaulted property that has not been redeemed, without regard to the boundaries of parcels, as provided in this chapter at the next scheduled tax sale, unless by other provisions of law the property is not subject to sale. Any person, regardless of any prior or existing lien on, claim to, or interest in, the property, may purchase at the sale.

(B) When a part of a tax-defaulted parcel is sold, the balance continues subject to redemption and shall be separately valued for the purpose of redemption in the manner provided by Chapter 2 (commencing with Section 4131) of Part 7.

(2) Before the tax collector sells vacant residential developed property pursuant to this subdivision, actual notice, by certified mail, shall be provided to the property owner, if the property owner's identity can be determined from the county assessor's or county recorder's records. The tax collector's power of sale shall not be affected by the failure of the property owner to receive notice.

(3) Before the tax collector sells vacant residential developed property pursuant to this subdivision,

notice of the sale shall be given in the manner specified by Section 3704.7.

(c) The amendments made to this section by the act [FN1] adding this subdivision apply to property that becomes tax defaulted on or after January 1, 2005.

[FN1]Stats.2004, c. 944 (A.B.2144).

§ 3691.1. Notice of parcel becoming subject to power of sale; acknowledgment

The tax collector shall execute a notice whenever a parcel becomes subject to the power of sale set forth in Section 3691 on a form prescribed by the Controller. The county clerk shall take acknowledgment of the notice without charge.

§ 3691.4. Recording of notice; no charge

The notice shall be recorded with the county recorder. After recordation, the notice shall be forwarded to the tax collector. The recorder shall make no charge for the recording.

§ 3701. Parties of interest; notice

Not less than 45 days nor more than 120 days before the proposed sale, the tax collector shall send notice of the proposed sale by certified mail with return receipt requested to the last known mailing

address, if available, of parties of interest, as defined in Section 4675. The notice shall state the date, time, and place of the proposed sale, the amount required to redeem the property, and the fact that the property may be redeemed up to the close of business on the last business day prior to the date of the sale, and information regarding the rights of parties of interest to claim excess proceeds, as defined in Section 4674, if the property is sold and excess proceeds result from that sale.

The tax collector shall make a reasonable effort to obtain the name and last known mailing address of parties of interest.

The validity of any sale under this chapter shall not be affected if the tax collector's reasonable effort fails to disclose the name and last known mailing address of parties of interest or if a party of interest does not receive the mailed notice.

§ 3711. Deed; conclusive evidence, exception

Except as against actual fraud, the deed duly acknowledged or proved is conclusive evidence of the regularity of all proceedings from the assessment of the assessor to the execution of the deed, both inclusive.

§ 3712. Title conveyed; encumbrances

The deed conveys title to the purchaser free of all encumbrances of any kind existing before the sale, except:

(a) Any lien for installments of taxes and special assessments, that installments will become payable upon the secured roll after the time of the sale.

(b) The lien for taxes or assessments or other rights of any taxing agency that does not consent to the sale under this chapter.

(c) Liens for special assessments levied upon the property conveyed that were, at the time of the sale under this chapter, not included in the amount necessary to redeem the tax-defaulted property, and, where a taxing agency that collects its own taxes has consented to the sale under this chapter, not included in the amount required to redeem from sale to the taxing agency.

(d) Easements constituting servitudes upon or burdens to the property, water rights, the record title to which is held separately from the title to the property; and restrictions of record.

(e) Unaccepted, recorded, irrevocable offers of dedication of the property to the public or a public entity for a public purpose, and recorded options of any taxing agency to purchase the property or any interest therein for a public purpose.

(f) Unpaid assessments under the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code) that are not satisfied as a result of the sale proceeds being applied pursuant to Chapter 1.3 (commencing with Section 4671) of Part 8, or that are being collected through a foreclosure action pursuant to Part 14 (commencing with Section 8830) of Division 10 of the Streets and Highways Code. A sale pursuant to this chapter shall not nullify, eliminate, or reduce the amount of a foreclosure judgment pursuant to Part 14 (commencing with Section 8830) of Division 10 of the Streets and Highways Code.

(g) Any federal Internal Revenue Service liens that, pursuant to provisions of federal law, are not discharged by the sale, even though the tax collector has provided proper notice to the Internal Revenue Service before that date.

(h) Unpaid special taxes under the Mello-Roos Community Facilities Act of 1982 (Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5 of the Government Code) that are not satisfied as a result of the sale proceeds being applied pursuant to Chapter 1.3 (commencing with Section 4671) of Part 8, or that are being collected through a foreclosure action pursuant to Section 53356.1 of the Government Code. A sale pursuant to this chapter shall not nullify, eliminate, or reduce the amount of a foreclosure judgment pursuant to Section 53356.1 of the Government Code.

Division 1. Property Taxation
Part 7. Redemption
Chapter 1. Redemption Generally

§ 4112. Collection of fees; effect of redemption; execution and recording of rescission of notice

(a) When tax-defaulted property subject to the notice recorded under Section 3691.4 is redeemed, the tax collector shall collect all of the following, in addition to the amount required to redeem:

(1) A fee of thirty-five dollars ($35) that shall be distributed to the county general fund to reimburse the county for its cost of obtaining the names and last known mailing addresses of, and for mailing notices required by Section 3701 to, parties of interest as defined by Section 4675.

(2) A fee in the amount required by Section 27361.3 of the Government Code that shall be distributed to the county recorder for the cost of recordation of a rescission of the notice, as required by subdivision (c).

(3) A fee of one hundred fifty dollars ($150) if redemption is within 90 days of the proposed date for the tax sale of the redeemed property. In the case of unsold tax sale properties remaining on the abstract after the tax sale, the fee shall become a part of the redemption amount and collectible whenever the property is redeemed. The fee shall be distributed to the county general fund to reimburse the county for

costs incurred by the county in preparing to conduct that sale.

(4) The amount described in subdivision (c) of Section 3704.7 to reimburse the county for the cost of a personal contact required by that section.

(b) Notwithstanding subdivision (a), if the tax-defaulted property is redeemed prior to the proposed sale, but after the county has incurred notice or publication costs pursuant to Section 3702 in connection with a notice of intended sale, a fee in an amount reasonably necessary to reimburse the tax collector for those costs may be collected.

(c) When tax-defaulted property subject to the notice recorded under Section 3691.4 is redeemed, the notice becomes null and void and the tax collector shall execute and record with the county recorder a rescission of the notice in the form prescribed by the Controller. The rescission shall be acknowledged by the county clerk, without charge.

(d) Any fee imposed under paragraph (1) of subdivision (a) or subdivision (b) shall be subject to the requirements of Section 54986 of the Government Code.